

***Response to Amendment***

This is in response to the Amendment filed 29 October 2008.

**(Previous) DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The rejection of claims 1 and 3 under 35 U.S.C. 103(a) as being unpatentable over Louzos (US 3,844,838) in view of JP10-083811 have been **withdrawn** in view of Applicants' Amendment.
2. The rejection of claim 2 under 35 U.S.C. 103(a) as being unpatentable over Louzos in view of JP10-083811 as applied to claim 1 above, and further in view of JP5-013073 has been withdrawn in view of Applicants' Amendment.

**(New) DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Louzos (US 3,844,838) in view of JP10-083811, and further in view of JP5-013073.

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**Claim 1:** Louzos in Figures 7-10 discloses an alkaline battery comprising: a negative electrode (40; 60) including an electrode mixture that contains a zinc or zinc alloy powder as an active material; an alkaline electrolyte (KOH); and a positive electrode (32; 58) (col. 13: 12-col. 14: 21),

wherein the zinc or zinc alloy powder has a specific surface area of  $0.01$  to  $10 \text{ m}^2/\text{g}$  (col. 10: 33-50).

Louzos does not disclose that the weight ratio of the electrolyte to the active material (electrolyte/negative electrode active material) is in the range of  $0.1$  to  $2$ .

JP10-083811 discloses a weight ratio of an electrolyte to the active material (electrolyte/negative electrode active material) that is in the range of  $0.1$  to  $2$ . In particular, JP10-083811 a weight ratio of zinc to an electrolyte liquid that is set to be  $1.75$ - $190$ , which equates to an electrolyte to zinc ration of  $1/1.75$ - $1/1.90$  or  $0.57$ - $0.52$ , which falls within the claimed weight ratio.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the alkaline batter of Louzos by incorporating the weight ration of JP10-083811 because JP10-083811 teaches an alkaline battery having a weight ratio of electrolyte to zinc active material that would have provided an alkaline dry cell having excellent properties and whose electric current value scarcely fluctuates after shock thereby improving the overall life and performance of the battery.

The Louzos combination does not disclose that the electrode mixture contains  $0.15$  to  $0.9$  wt % of lithium hydroxide.

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JP5-013073 discloses that the electrode mixture contains 0.15 to 0.9 wt % of lithium hydroxide. In particular, JP5-0103073 discloses that the electrode mixture contains 0.05 to 10 wt %, which encompasses the claimed range.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the electrode mixture of the Louzos combination by incorporating the lithium hydroxide of JP5-013073 because JP5-013073 teaches an alkaline battery comprising lithium hydroxide that would have restrained corrosion of zinc and hydrogen gas generation therefrom by adding the predetermined weight percentage of lithium hydroxide thereby improving the overall life, performance and safety of the battery.

**Claim 3:** The rejection of claim 3 is as set forth above in claim 1 wherein further Louzos discloses that the zinc or zinc alloy powder has a specific surface area of 0.1 to 5 m<sup>2</sup>/g (col. 10: 33-50), and JP10-083811 discloses that the weight ratio of the electrolyte to the active material is in the range of 0.2 to 0.7.

### ***Response to Arguments***

I. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., electrolyte contained in the positive electrode mixture, the separator and the gelled negative electrolyte) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

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II. The Applicants argue that as the range in amended claim 1 for the lithium hydroxide content shows unexpected results that are superior to the range claimed by the prior art, as indicated in Table 3 of the present disclosure.

In response, Table 1 does not show results for wt% outside of the claimed range. As such, there is no comparison between the claimed range and points outside the range. Therefore, it would have been within the skill of one having ordinary skill in the art at the time the invention was made to have selected any wt% between 0.05 and 10 wt% depending upon the desired level of corrosion resistance and hydrogen gas generation.

### ***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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*Examiner Correspondence*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to THOMAS H. PARSONS whose telephone number is (571)272-1290. The examiner can normally be reached on M-F (7:00-3:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pat Ryan can be reached on (571) 272-1292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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